

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
3 ASHEVILLE DIVISION

Civil Action No: 1:00 CV 144 -T

5 SUPERGUIDE CORPORATION, a )  
North Carolina Corporation, )

6 Plaintiff, )

7 Vs. )

8 DIRECTV ENTERPRISES, INC., a )  
9 Delaware Corporation; DIRECTV, )  
INC., a California Corporation; )  
10 DIRECTV OPERATIONS, INC., a )  
California Corporation; HUGHES )  
11 ELECTRONICS CORPORATION, a )  
Delaware Corporation; THOMSON )  
12 CONSUMER ELECTRONICS, INC., )  
dba RCA, a Delaware Corporation; )  
13 ECHOSTAR COMMUNICATIONS )  
CORPORATION, a Nevada )  
14 Corporation; ECHOSTAR )  
SATELLITE CORPORATION, a )  
15 Colorado Corporation; ECHOSTAR )  
TECHNOLOGIES CORPORATION, )  
16 a Texas Corporation, )

17 Defendants. )  
18  
19

FILED  
CHARLOTTE, N. C.

JUN 27 2000

U. S. DISTRICT COURT  
W. DIST. OF N. C.

COMPLAINT FOR PATENT  
INFRINGEMENT AND  
PERMANENT INJUNCTION

JURY TRIAL DEMANDED

20 Plaintiff SuperGuide Corporation ("SuperGuide" or "Plaintiff"), as and for  
21 its claims for relief herein, alleges on information and belief as follows:  
22

23 GENERAL ALLEGATIONS AND PARTIES

24 1. In this action, SuperGuide seeks damages and injunctive relief  
25 against defendants DirecTV Enterprises, Inc., DirecTV, Inc., DirecTV Operations, Inc.,  
26 (collectively, "DTV"); Hughes Electronics Corporation ("Hughes"); Thomson Consumer  
27 Electronic, Inc., dba RCA ("RCA"); and, EchoStar Communications Corporation,  
28 EchoStar Satellite Corporation, and EchoStar Technologies Corporation (collectively

1 "EchoStar") for acts of patent infringement in violation of the Patent Act of the United  
2 States, 35 U.S.C. §§ 1 *et seq.* DTV, Hughes, RCA, and EchoStar are referred to collectively  
3 as "Defendants."

4           2. SuperGuide is a corporation organized and existing under the laws  
5 of the State of North Carolina and maintains its principal place of business at 501 North  
6 Washington Street, Shelby, North Carolina.

7           3. SuperGuide alleges on information and belief that DirecTV  
8 Enterprises, Inc., is a Delaware corporation with its principal place of business at 2230 E.  
9 Imperial Highway, El Segundo, California. SuperGuide further alleges on information  
10 and belief that DirecTV Enterprises, Inc., is a wholly owned subsidiary and business unit  
11 of Hughes Electronics Corporation.

12           4. SuperGuide alleges on information and belief that DirecTV, Inc.,  
13 and DirecTV Operations, Inc., are California corporations with their principal place of  
14 business at 2230 E. Imperial Highway, El Segundo, California. SuperGuide further  
15 alleges on information and belief that DirecTV, Inc., and DirecTV Operations, Inc., are  
16 wholly owned subsidiaries of DirecTV Enterprises, Inc.

17           5. Hughes Electronics Corporation is a Delaware corporation, and has  
18 its principal place of business at 2230 E. Imperial Highway, El Segundo, California.

19           6. SuperGuide alleges on information and belief that Thomson  
20 Consumer Electronics, Inc., is a Delaware corporation with its principal place of business  
21 at 10330 North Meridian Street, Indianapolis, Indiana and does business as "RCA."  
22 SuperGuide further alleges on information and belief that DirecTV Enterprises, Inc.,  
23 owns approximately 5% of Thomson multimedia, the parent corporation of Thomson  
24 Consumer Electronics, Inc.

25           7. SuperGuide alleges on information and belief that EchoStar  
26 Communications Corporation is a Nevada corporation with its principal place of  
27 business at 5701 South Santa Fe Drive, Littleton, Colorado.

28           8. SuperGuide alleges on information and belief that EchoStar Satellite

Corporation is a Colorado corporation with its principal place of business at 5701 South Santa Fe Drive, Littleton, Colorado.

9. SuperGuide alleges on information and belief that EchoStar Technologies Corporation is a Texas corporation with its principal place of business at 5701 South Santa Fe Drive, Littleton, Colorado.

10. DTV and EchoStar provide direct broadcast satellite (“DBS”) service to subscribers throughout the United States, with over 500,000 subscribers in the State of North Carolina, including the Western District of North Carolina. The DBS service that DTV and EchoStar offer includes an interactive electronic program guide.

11. Hughes, RCA, and EchoStar manufacture or have manufactured DBS receiver equipment that is offered for sale and sold to consumers for use with DTV's and EchoStar's DBS service, including over 500,000 consumers in the State of North Carolina, including the Western District of North Carolina. The receiver equipment that Hughes, RCA and EchoStar offer for sale and sell includes hardware and software for the receipt, operation, and display of the electronic program guide that DTV and EchoStar provide through their DBS service to every one of their subscribers.

## JURISDICTION AND VENUE

12. This court has subject matter jurisdiction over this action under 28 U.S.C. §§ 1338(a) and 1331.

13. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(c), and 1400(b), in that the patents at issue are the property of a corporation located in this district, Defendants reside in this judicial district by virtue of their business activity in this judicial district, and Defendants have committed acts of infringement in this district.

**FIRST CLAIM FOR RELIEF**  
**INFRINGEMENT OF U.S. PATENT NO. 5,038,211 AGAINST ALL DEFENDANTS**

14. SuperGuide repeats and realleges on information and belief as though fully set forth here paragraphs 1 through 13 of this Complaint.

15. At all relevant times in the DBS field, SuperGuide is and has been the owner of the entire right, title, and interest in and to U.S. Letters Patent No. 5,038,211 (the "Hallenbeck '211 Patent"), entitled "METHOD AND APPARATUS FOR TRANSMITTING AND RECEIVING TELEVISION PROGRAM INFORMATION," which was duly granted by the United States Patent and Trademark Office on August 6, 1991. (A copy of the Hallenbeck '211 Patent is attached as Exhibit A.)

16. SuperGuide alleges on information and belief that Defendants have infringed and continue to infringe the Hallenbeck '211 Patent by making, using, or selling in the United States products or devices that embody or otherwise practice one or more of the claims of the Hallenbeck '211 Patent, or by otherwise contributing to infringement or inducing others to infringe said patent.

17. SuperGuide has given notice to DTV, Hughes, RCA, and EchoStar of their infringement of the Hallenbeck '211 Patent.

18. SuperGuide electronically marked all patented articles in the DBS field that it made, offered for sale, and sold in the United States following the issuance of the Hallenbeck '211 patent with the patent number.

19. SuperGuide alleges on information and belief that Defendants will continue to infringe the Hallenbeck '211 Patent unless enjoined by this Court.

20. SuperGuide alleges on information and belief that Defendants' infringement of the Hallenbeck '211 Patent is, has been, and continues to be willful and deliberate.

21. As a direct and proximate result of Defendants' infringement of the Hallenbeck '211 Patent, SuperGuide has been and continues to be damaged in an amount yet to be determined.

1           22. By reason of the above acts, Defendants have caused, are causing,  
2 and unless enjoined and restrained by this court, will continue to cause SuperGuide  
3 great and irreparable injury to, among other things, the good will and business  
4 reputation of SuperGuide and its business relations with its customers, all of which  
5 cannot be adequately compensated or measured in money. SuperGuide has no  
6 adequate remedy at law. SuperGuide is entitled to injunctive relief enjoining and  
7 restraining Defendants, and their respective officers, agents, servants, and employees,  
8 and all persons acting in concert with them, and each of them, from further infringement  
9 of the Hallenbeck '211 Patent.

10  
11                                   **SECOND CLAIM FOR RELIEF**

12           **INFRINGEMENT OF U.S. PATENT NO. 5,293,357 AGAINST ALL DEFENDANTS**

13           23. SuperGuide repeats and realleges on information and belief as  
14 though fully set forth here paragraphs 1 through 22 of this Complaint.

15           24. At all relevant times in the DBS field, SuperGuide is and has been  
16 the owner of the entire right, title, and interest in and to U.S. Letters Patent No. 5,293,357  
17 (the "Hallenbeck '357 Patent"), entitled "METHOD AND APPARATUS FOR  
18 CONTROLLING A TELEVISION PROGRAM RECORDING DEVICE," which was duly  
19 granted by the United States Patent and Trademark Office on March 8, 1994. (A copy of  
20 the Hallenbeck '357 Patent is attached as Exhibit B.)

21           25. SuperGuide alleges on information and belief that Defendants have  
22 infringed and continue to infringe the Hallenbeck '357 Patent by making, using, or  
23 selling in the United States products or devices that embody or otherwise practice one or  
24 more of the claims of the Hallenbeck '357 Patent, or by otherwise contributing to  
25 infringement or inducing others to infringe said patent.

26           26. SuperGuide has given notice to DTV, Hughes, RCA, and EchoStar  
27 of their infringement of the Hallenbeck '357 Patent.

28           27. SuperGuide alleges on information and belief that Defendants will

1 continue to infringe the Hallenbeck '357 Patent unless enjoined by this Court.

2           28. SuperGuide alleges on information and belief that Defendants'  
3 infringement of the Hallenbeck '357 Patent is, has been, and continues to be willful and  
4 deliberate.

5           29. As a direct and proximate result of Defendants' infringement of the  
6 Hallenbeck '357 Patent, SuperGuide has been and continues to be damaged in an  
7 amount yet to be determined.

8           30. By reason of the above acts, Defendants have caused, are causing,  
9 and unless enjoined and restrained by this court, will continue to cause SuperGuide  
10 great and irreparable injury to, among other things, the good will and business  
11 reputation of SuperGuide and its business relations with its customers, all of which  
12 cannot be adequately compensated or measured in money. SuperGuide has no  
13 adequate remedy at law. SuperGuide is entitled to injunctive relief enjoining and  
14 restraining Defendants, and their respective officers, agents, servants, and employees,  
15 and all persons acting in concert with them, and each of them, from further infringement  
16 of the Hallenbeck '357 Patent.

17  
18                                   **THIRD CLAIM FOR RELIEF**

19           **INFRINGEMENT OF U.S. PATENT NO. 4,751,578 AGAINST ALL DEFENDANTS**

20           31. SuperGuide repeats and realleges on information and belief as  
21 though fully set forth here paragraphs 1 through 30 of this Complaint.

22           32. At all relevant times in the DBS field, SuperGuide is and has been  
23 the owner of the entire right, title, and interest in and to U.S. Letters Patent No. 4,751,578  
24 (the "Reiter '578 Patent"), entitled "SYSTEM FOR ELECTRONICALLY  
25 CONTROLLABLY VIEWING ON A TELEVISION UPDATEABLE TELEVISION  
26 PROGRAMMING INFORMATION," which was duly granted by the United States  
27 Patent and Trademark Office on June 14, 1988. (A copy of the Reiter '578 Patent is  
28 attached as Exhibit C.)

1           33. SuperGuide alleges on information and belief that Defendants have  
2 infringed and continue to infringe the Reiter '578 Patent by making, using, or selling in  
3 the United States products or devices that embody or otherwise practice one or more of  
4 the claims of the Reiter '578 Patent, or by otherwise contributing to infringement or  
5 inducing others to infringe said patent.

6           34. SuperGuide has given notice to DTV, Hughes, RCA, and EchoStar  
7 of their infringement of the Reiter '578 Patent.

8           35. SuperGuide electronically marked all patented articles in the DBS  
9 field that it made, offered for sale, and sold in the United States following the issuance of  
10 the Reiter '578 patent with the patent number.

11           36. SuperGuide alleges on information and belief that Defendants will  
12 continue to infringe the Reiter '578 Patent unless enjoined by this Court.

13           37. SuperGuide alleges on information and belief that Defendants'  
14 infringement of the Reiter '578 Patent is, has been, and continues to be willful and  
15 deliberate.

16           38. As a direct and proximate result of Defendants' infringement of the  
17 Reiter '578 Patent, SuperGuide has been and continues to be damaged in an amount yet  
18 to be determined.

19           39. By reason of the above acts, Defendants have caused, are causing,  
20 and unless enjoined and restrained by this court, will continue to cause SuperGuide  
21 great and irreparable injury to, among other things, the good will and business  
22 reputation of SuperGuide and its business relations with its customers, all of which  
23 cannot be adequately compensated or measured in money. SuperGuide has no  
24 adequate remedy at law. SuperGuide is entitled to injunctive relief enjoining and  
25 restraining Defendants, and their respective officers, agents, servants, and employees,  
26 and all persons acting in concert with them, and each of them, from further infringement  
27 of the Reiter '578 Patent.



**PRAYER FOR RELIEF**

WHEREFORE, SuperGuide prays for judgment against Defendants as follows:

1. for a judicial determination and declaration that Defendants, and each of them, infringe U.S. Letters Patent Nos. 5,038,211, 5,293,357, and 4,751,578;

2. for a judicial determination and decree that Defendants' infringement of U.S. Letters Patent Nos. 5,038,211, 5,293,357, and 4,751,578 is willful;

3. for damages resulting from Defendants' past and present infringement of U.S. Letters Patent Nos. 5,038,211, 5,293,357, and 4,751,578, and the trebling of such damages because of the willful and deliberate nature of Defendants' infringement;

4. for injunctive relief enjoining against further infringement of U.S. Letters Patent Nos. 5,038,211, 5,293,357, and 4,751,578 by Defendants, their officers, directors, shareholders, agents, servants, employees, and all other entities and individuals acting in concert with them or on their behalf;

5. for an assessment of prejudgment interest on damages;

6. for a declaration that this is an exceptional case under 35 U.S.C. § 285 and for an award of attorneys' fees and costs in this action; and,

7. for such other and further relief as the court deems just and equitable.



1 DATED: June 27, 2000

2 A. Ward McKeithen, by EJB  
3 A. Ward McKeithen  
4 N.C. Bar No. 5063

5 Everett J. Bowman  
6 Everett J. Bowman  
7 N.C. Bar No. 9132

8 Robinson, Bradshaw & Hinson, P.A.  
9 101 North Tryon Street, Suite 1900  
10 Charlotte, North Carolina 28246  
11 (704) 377-2536

12 Roderick G. Dorman, by EJB  
13 Roderick G. Dorman

14 Lawrence M. Hadley, by EJB  
15 Lawrence M. Hadley

16 Hennigan, Bennett & Dorman  
17 601 South Figueroa Street  
18 Suite 3300  
19 Los Angeles, California 90017  
20 (213) 694-1200

21 Attorneys for Plaintiff  
22 SuperGuide Corporation  
23  
24  
25  
26  
27  
28

1 DEMAND FOR JURY TRIAL

2  
3 Plaintiff hereby demands a trial by jury of any issue triable by right by a  
4 jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

5 DATED: June 27, 2000

6 A. Ward McKeithen, by EPB  
7 A. Ward McKeithen  
8 N.C. Bar No. 5063

9 Everett J. Bowman  
10 Everett J. Bowman  
11 N.C. Bar No. 9132

12 Robinson, Bradshaw & Hinson, P.A.  
13 101 North Tryon Street, Suite 1900  
14 Charlotte, North Carolina 28246  
15 (704) 377-2536

16 Roderick G. Dorman, by EPB  
17 Roderick G. Dorman

18 Lawrence M. Hadley, by EPB  
19 Lawrence M. Hadley

20 Hennigan, Bennett & Dorman  
21 601 South Figueroa Street  
22 Suite 3300  
23 Los Angeles, California 90017  
24 (213) 694-1200

25 Attorneys for Plaintiff  
26 SuperGuide Corporation  
27  
28

**NOTE:**

**THIS IS A PARTIALLY  
SCANNED DOCUMENT.**

**PLEASE SEE THE CASE  
FILE FOR  
ATTACHMENTS,  
EXHIBITS, AFFIDAVITS  
OR OTHER MATERIAL  
WHICH HAS NOT BEEN  
SCANNED.**